DOCUMENT RESUME

ED 380 838 CS 508 859

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TITLE News Media in the Courtroom: Free Press or Fair Trial.
PUB DATE 94
NOTE 21p.
PUB TYPE Information Analyses (070) -- Viewpoints (Opinion/Position Papers, Essays, etc.) (120)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Court Judges; Freedom of Information; Higher Education; Information Sources; *Journalism; Juries; *Mass Media; *Mass Media Effects; *Mass Media Role; Public Opinion; Research Needs
IDENTIFIERS *Criminal Justice System; *Supreme Court

ABSTRACT

The news media's interaction with the criminal justice system and the public--specifically, whether or not the news media's presence inside and outside the courtroom affects a defendant's right to a fair trial--is examined. In 1965, Dr. Sam Sheppard was convicted for the murder of his pregnant wife in their Cleveland suburban home. Since this case received an enormous amount of pretrial publicity, the U.S. Supreme Court ruled that Dr. Sheppard's Sixth Amendment rights were violated and overturned the trial court's decision. Then, in the 1970s and 1980s, the Supreme Court began focusing more on the media's First Amendment rights. In Richmond Newspapers vs. Virginia, the Supreme Court ruled that for a courtroom to be closed, the trial judge must provide substantial proof showing that the defendant's right to a fair trial would be compromised by the media's presence. The Supreme Court, however, never set a standard that trial judges must follow: trial judges were left to their own best judgment. Experiments conducted by Roberts and Doob (1990), Moral and Cutler (1991) and Riedel (1993), show that pretrial publicity "can" affect a potential juror's or judge's decision. However, Davis' (1986) and part of Riedel's (1993) experiment revealed that potential jurors are able to set aside pretrial publicity and render a verdict on the evidence presented. This dichotomy shows that further research needs to be done, and that research should involve "actual trial participants" instead of "simulated trial participants." (Contains 17 references.) (Author/TB)

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News Media in the Courtroom:
Free Press or Fair Trial
ABSTRACT
by Allan Pearlstein

This paper will examine the news media's interaction with the criminal justice system and the public - specifically, does the news media's presence inside and outside the courtroom affect a defendant's right to a fair trial? In 1965, Dr. Sam Sheppard was convicted for the murder of his pregnant wife in their Cleveland suburban home. Since this case received an enormous amount of pretrial publicity, the US Supreme Court ruled that Dr. Sheppard's Sixth Amendment rights (fair trial rights) were violated due to all the media coverage and overturned the trial court's decision. The Supreme Court ruled that the trial court judge should have better controlled the media access. Then, in the 1970s and 1980s, the Supreme Court shifted and began focusing more on the media's First Amendment rights (free press rights). For example, in Richmond Newspapers v. Virginia, the Supreme Court ruled in a 7-1 decision to allow the media into the courtroom and cover trial proceedings. They further stated that in order for a courtroom to be closed, *the trial judge must provide substantial proof* showing that the defendant's right to a fair trial are violated. The Supreme Court however never set a standard that trial judges must follow, thus leaving the trial judge to use his or her best judgement. Unfortunately for the defendant, studies show that pretrial publicity does bias potential jurors. Thus, the problem arises in balancing the defendant's right to a fair trial and the media's right to cover the trial, as well as determining if pretrial publicity biases "real" jurors.

INTRODUCTION

A Football Hall of Fame running back has been indicted for a double murder of his former spouse and a waiter in Los Angeles. Since June 1994 when the murders occurred, the news media have relentlessly pursued this case. Televised trial proceedings, interviews with witnesses on various news programs and talk shows, and headlines in the newspapers have captured the public's attention. Television producers are encouraging this "feeding frenzy" and the public is showing an interest in following the case of a celebrity and receiving an education of our judicial system.

Conversely, opponents such as this author believe that O.J. Simpson will have a difficult time receiving a fair trial by *an impartial jury* since the mass media have possibly influenced potential jurors. If O.J. Simpson did commit the murders, he should be treated no differently than the average person. After all, celebrity or not, he should be afforded the same constitutional rights as the rest of us. This paper will examine the relationship between two issues: how and why the mass media interact with the justice system and the general public; and viewpoints of opponents and proponents of courtroom media coverage. The viewpoints will be supported by various U.S. Supreme Court decisions and studies in the mass media field.

COURT CASES: A HISTORICAL BACKGROUND

One of the earliest court cases to grapple with the pretrial publicity issue was the treason trial of Aaron Burr in 1807 (Minow & Cate, 1992). Since this sensational trial was publicized, Burr's attorney argued that locating *impartial or unbiased jurors* was "virtually impossible" (Minow & Cate, 1992). An impartial juror as defined by the court "is one free from the dominant influence of knowledge acquired outside the courtroom, free from strong and deep impressions which close the mind" (Surette, 1992). Chief Justice John Marshall,

who was the presiding judge, disagreed with Burr's attorney and stated: "[requiring jurors without any opinions] would exclude intelligent and observing men, whose minds were really in a situation to decide upon the whole case according to the testimony" (Minow & Cate, 1992). Justice Marshall's opinion was further supported in Irwin v. Dowd (366 U.S. 717, 1961) when the U.S. Supreme Court ruled that having prior knowledge about a case does not necessarily disqualify a juror (Minow & Cate, 1992). Furthermore, the court ruled that it is sufficient for jurors to set aside their opinions and render a verdict based on the evidence presented (Minow & Cate, 1992).

Perhaps the leading case in history to address the free press-fair trial rights issue is Sheppard v. Maxwell (383 U.S. 333, 1966). In 1954, Dr. Sam Sheppard was convicted of murdering his pregnant wife in their Cleveland suburb home. (Litt, 1992). Judge Edward Blythin was the presiding judge (Barber, 1987). Within a few weeks of the murder, the media took charge of the trial by demanding for the arrest and conviction of Dr. Sheppard (Overbeck & Pullen, 1992). In an effort to pressure the court for a guilty verdict, the jurors' home telephone numbers were published, and as a result, Dr. Sheppard was subsequently convicted of the crime (Overbeck & Pullen, 1992).

In 1966, twelve years after the State (Ohio) conviction of Sheppard, the U.S. Supreme Court reviewed the case and overturned the verdict (Overbeck & Pullen, 1992). Dr. Sheppard was granted a new trial and was subsequently acquitted (Overbeck & Pullen, 1992). The Supreme Court ruled that Judge Blythin had failed to protect the defendant from the pretrial publicity to which the community was exposed (Barber, 1987; Litt, 1992; Overbeck & Pullen, 1992). For example, the media were permitted to move freely about the courthouse and the courtroom; jurors were permitted to read newspapers and watch television, and the jurors were never questioned to determine if they heard

any pretrial publicity (The Simpson Trial, 7 November 1994). The court described the courtroom scene as "bedlam" and stated that the trial judge should have restricted the media coverage, thus preserving the defendant's Sixth Amendment fair trial rights (Litt, 1992).

While the U.S. Supreme Court was in favor of the defendant's Sixth Amendment fair trial rights in Sheppard v. Maxwell in the 1960s, during the 1970s and 1980s, the justices' opinions shifted and they began to favor the media's First Amendment free press rights. For example, in Nebraska Press Association v. Stuart (427 U.S. 53, 1976), the issuing of "gag" orders was center stage (Overbeck & Pullen, 1992). In the Nebraska case, an unemployed handyman with an IQ of 75 borrowed a shotgun, went next door and murdered six people of the James Henry Kellie family (Overbeck & Pullen, 1992).

The defendant confessed to the murders, however, questions were raised as to whether the defendant had the mental capacity to stand trial (Overbeck & Pullen, 1992). The county judge issued a "gag" order, thus restricting the Nebraska news organizations from reporting the trial testimony (Overbeck & Pullen, 1992). The order was appealed by the news organizations and the Nebraska Supreme Court ruled to prohibit the publishing of "strongly implicative" facts against the defendant as well as his confession (Overbeck & Pullen, 1992). The U.S. Supreme court reviewed the case upon appeal and unanimously ruled that only when the publicity is "intense and pervasive" may the trial judge impose "gag" or restraining orders on the press (Overbeck & Pullen, 1992). The Supreme Court did, however, permit the trial judge to impose restrictions on the trial participants not to disclose any trial information to the press (Overbeck & Pullen, 1992).

In Richmond Newspapers v. Virginia (448 U.S. 555, 1980), the trial judge closed the courtroom to all reporters and spectators before the fourth murder

trial of a man who was accused of murdering a hotel manager (Overbeck & Pullen, 1992). He based his decision on the Virginia statue which allows "the removal of any persons whose presence would impair the conduct of a fair trial" (Overbeck & Pullen, 1992). Two Richmond newspapers appealed this decision to the U.S. Supreme Court, who ruled in a 7-1 decision to overrule the trial closing (Overbeck & Pullen, 1992). This decision was seen as a major victory for the mass media (Overbeck & Pullen, 1992). Chief Justice Warren E. Burger's opinion stated that the media have a constitutional right of access to trial information under the First Amendment (Overbeck & Pullen, 1992). Furthermore, the trial judge *must show evidence* that media access would diminish the defendant's Sixth Amendment fair trial rights (Surette, 1992).

Since the 1970s when the Supreme Court began ruling in favor of the press's *free press* rights, trial judges have faced the dilemma of determining when to restrict the media (Surette, 1992). Since the Supreme Court has *never* defined a standard, the trial judge must determine on a case-by-case basis what information is prejudicial, and if that information will infringe on a defendant's right to a fair trial (Surette, 1992). Most states put the burden of proof on the defendant to show that information is prejudicial (Surette, 1992). Furthermore, most states just require that a juror state under oath that they be impartial and render a verdict based on the evidence in presented in court (Surette, 1992).

ROLE OF THE MASS MEDIA IN THE JUSTICE SYSTEM

The common thread running through all aforementioned court cases have been the mass media's role in reporting criminal justice issues to the public. The media's role in reporting news is multifaceted - the media report news to the general public by being at crime scenes, arrests, pretrial and trial proceedings, sentences and execution sites (Surette, 1984). Since six to twelve percent of the population have direct interaction with the justice system, the media provide a

"prime information base" (Surette, 1984) in educating the public about the criminal justice system, which is a vital part of the mass media (Hans & Dee, 1991; Hodson, 1992). Also, the media report stories that focus on the deviant and out-of-place stories such as serial killers and psychotic personalities (Ericson et al, 1991). Furthermore, the public has learned to recognize law as it is portrayed through television and other media of popular culture, rather than through formal procedure in the legal system (Ericson et al, 1991).

Individuals gain knowledge about society from four different sources: personal experiences, significant others, social groups, and the mass media (Surette, 1992). Studies show that people spend roughly three hours daily watching television (Hans & Dee, 1991). Television or electronic visual media has an advantage over print media since television is easy to comprehend, accessible, and does not require the viewer to be able to read (Surette, 1992). Television is also very personalized since it allows people of different ages and educational levels to *be* at the actual event (Surette, 1992). Furthermore, when reporting a dramatic trial, coverage is usually live and pictures are preferred over text in order to reach a wide range of people (Hans & Dee, 1991; Surette, 1989).

A mid-1980s Hearst Corporation Survey asked people where they get their court news (Hodson, 1992). Results show that 54 percent get their news from viewing television; 51 percent from newspapers; 28 percent from radio news; almost 20 percent from television dramas (legal or police); and 18 percent from magazines (Hodson, 1992). Only six to twelve percent said they get their court news from jury service or other personal court experiences (Hodson, 1992). This study sheds some light on the educational aspect of the media and the legal system since "approximately 75 percent of adult Americans know little to nothing about the functioning of out court system" (Hodson, 1992). For example, almost

half of those surveyed believed a defendant is *guilty until proven innocent* (Hodson, 1992).

Thus, the major role of the mass media is to help people understand what events are important, who is important, where these events occur, and why these events are important (Ericson et al, 1991). The mass media tend to be more *important* in large industrialized societies such as the United States since large institutions such as the criminal justice system depend on the mass media to disseminate information about them (Surette, 1992). Furthermore, as the media become widely known and accepted, the reporting of events is held by the public to be significant (Surette, 1992).

TRIAL COVERAGE AND THE MASS MEDIA

One of the central roles of the press in the United States is to cover criminal trials, which have always fascinated Americans (Surette, 1984). Since most viewers have no firsthand knowledge of the workings of the justice system, viewers rely on the mass media to "provide information about the court system and the legal process" (Hans & Dee, 1991). The common denominator is that people want to see detailed information about sensational and gruesome stories since crime excites people and is a form of entertainment (Hodson, 1992). People are showing an insatiable appetite for crime and legal issues, "60 percent of local television news is devoted to 'cops and courts'"(Hodson, 1992). "[Televised] media trials therefore, represent the final step in a long process of merging the news and entertainment components of the mass media" (Surette, 1989).

Granted, media coverage of judicial issues enhances the public's knowledge of our legal system. However, a few problems arise (Hodson, 1992; Surette, 1984). For example, any given newscast only shows about 30 seconds of the criminal event and tends to focus on the suspicious looking defendant (Surettte,

1984). Secondly, many reporters who cover trials are unfamiliar with the law and trial proceedings, and as a result, they may report inaccurate information (Surette, 1984). Finally, the major problem with the mass media coverage of judicial issues occurs when courts must balance the media's First Amendment free press rights and the defendant's Sixth Amendment fair trial rights (Surette, 1984).

The media argue that secrecy of judicial proceedings can only breed distrust, ignorance, and suspicion concerning the impartiality of judges (Surette, 1984). For example, Justice Potter Stuart once stated: "The primary purpose of a constitutional guarantee of a free press was....to create a fourth institution outside the government as an additional check on the three official branches" (Spitzer, 1993). Furthermore, free reporting, criticism, and debate all contribute to public understanding and functioning of the entire justice system (Surette, 1984). The news media serve as a check on the police department and other government law enforcement agencies by checking patterns of police activity and by exposing wrongful arrests and prosecution (Spitzer, 1993). By freely reporting justice issues, the public will gain an understanding and comprehension of the justice system, and the system will be forced to remain *clean* (Surette, 1984). Thus, media coverage of courtroom proceedings is permitted for two major reasons: "[f]irst, the criminal trial has historically been an open proceeding within our scheme of justice. Second, such as right of access is essential in meeting core goals of our criminal justice system" (Surette, 1984).

Conversely, defendants have argued that the Sixth Amendment guarantees them a right to a fair trial by an impartial jury (Surette, 1984). Pretrial publicity, especially in sensational cases, *may* compromise the defendant's rights by biasing jurors (Surette, 1984). Unfortunately for the defendant, "courts have consistently ruled that if a subject is newsworthy, it falls under the First

Amendment protection" (Spitzer, 1993). For example, a case involving a social prominent individual, a psychotic killer, or a terrorist group, usually attracts peoples attention (Surette, 1989). Opponents, *including some defense attorneys and defendants* have no problem with the media reporting events about a case, but they do object to the media reporting incriminating evidence about a suspect or invading the privacy of a witness (Spitzer, 1993). For example, the media may publish information about inadmissible evidence in the courtroom creating an "atmosphere in which it is difficult to impanel an unbiased juror" (Surette, 1992).

It is often necessary to restrict the press's access in order to protect the defendant's constitutional rights (Surette, 1984). Conversely, the media have pressed for "the unhampered right" to report judicial events (Surette, 1984). They claim this right is paramount since the First Amendment affords them "freedom of the press" (Surette, 1984). The final result is both parties want to gather and control access to court information and both parties wish to present this information to a specific audience (Surette, 1992).

EXPERIMENTS AND STUDIES OF THE MEDIA IN THE COURTROOM

"Considerable social science research has addressed the issue of pretrial publicity" (Davis, 1986) and how the interaction between the media and the justice system affect the public. Roberts and Doob (1990) conducted a study examining how the mass media affect "people's attitudes about sentencing convicted criminals" (Hans & Dee, 1991). The researchers noted that most people learn about criminal sentences from the mass media which tend to be brief and exaggerate the violent crime level (Hans & Dee, 1991). The researchers randomly assigned subjects to read either a newspaper story about a criminal sentence, or read a summary of the trial court documents which the judge used in

imposing the sentence (Hans & Dee, 1991). The results showed that subjects who read the trial court summary were likely to see the sentence as appropriate, where the subjects who read the story in the newspaper saw the sentence as inappropriate (Hans & Dee, 1991).

In support of the media's negative influence on the public, Moran and Cutler (1991) conducted a study examining "the prejudicial impact of pretrial publicity." "Prejudice is defined in a circular fashion as the inability to serve as a fair and impartial juror" (Moran & Cutler, 1991). Since impartiality is a state of mind, the degree of prejudice is dependant upon the individual (Moran & Cutler, 1991). The authors conducted two telephone surveys of two different criminal events examining the correlation between pretrial publicity and juror prejudice. The questions elicited demographic data, attitudes towards crime, awareness of the publicity related to the defendant(s), and the ability to disregard the mass media and be an impartial juror.

In the first study, the authors surveyed 604 respondents on a case which involved four defendants who were on trial in Southern Illinois for distribution of marijuana. The authors defined this case as moderately publicized, since a total of 35 articles appeared in local nev spapers. The results showed that 84 percent of the respondents either *strongly agreed or agreed* that crime stories reported in local newspapers turn out to be true. Furthermore, respondents who viewed five or more articles about a story believed that there was "a lot of evidence" against the defendant, and 38 percent of the respondents said they would be unable to be an impartial juror (Moran & Cutler, 1991).

In the second case, 100 respondents were surveyed on a case involving a Hispanic individual who was charged with the shooting death of a young Miami Beach police officer during a drug deal which went sour. Media coverage of this case lasted from June 1988 through September 1988. The results showed that 72

percent either *strongly agreed or agreed* that crime stories in local newspapers are true. At least 50 percent of the respondents believed that three or more articles "is a lot of evidence" against the defendant and a minimum of one-third of the respondents said they would be unable to disregard the news media and be an impartial juror. Based on these findings, the authors concluded that even moderate publicity may bias prospective jurors (Moran & Cutler, 1991).

In addition to the study conducted by Moran and Cutler (1991), Riedel (1993) conducted a study which examined the effects of pretrial publicity on the conviction and sentencing of rapists. The researcher used 134 male and 208 female undergraduate students. The first phase of the experiment consisted of randomly assigning students to read *either* a mistaken acquittal story (MAS) which told of a man who was acquitted of rape and two weeks later the same man raped and killed a woman; a mistaken conviction story (MCS) which told of a man who spent six months in prison until the true rapist confessed; four neutral articles which discussed the weather, environment, education, and the economy; or read no articles (Riedel, 1993).

In the second and third phases, the subjects were assigned to play either the role of judge or juror, and view a videotape of a "white defendant accused of first degree sexual assault" (Riedel, 1993). After viewing the videotape, subjects playing the role of judge were told to assume that the jury had rendered a guilty verdict and now they must impose a sentence, and subjects playing the role of juror rendered a verdict (Riedel, 1993).

The results showed that regardless of the gender, subjects who read the MAS (negative publicity) imposed an average sentence of 29.65 years, and subjects who read the MCS imposed an average sentence of 12.15 years. The researcher stated that it would be interesting to know how "real judges" are influenced by pretrial publicity (Riedel, 1993).

Furthermore, the results showed that "of the 175 subjects playing the role of juror, 45 (31 women and 14 men) found the defendant 'guilty', and 130 (77 women and 53 men) found him 'not guilty'" (Riedel, 1993). The author concluded that people may render different verdicts depending on the type of publicity which they viewed (Riedel, 1993).

In contrast to the three previous studies, Davis (1986) concluded that jurors can set aside prejudicial pretrial publicity and render a verdict based on the evidence presented. Davis' experiment examined how pretrial publicity affected the defendant's chance of receiving a fair trial. He used 224 undergraduate students in a 2 x 2 factorial design which used publicity (negative or neutral) and trial time (immediate or delayed for one week) as its variables. The publicity variable consisted of having subjects read either negative publicity or neutral publicity about realistic news events. The negative publicity mentioned the victims name, the defendant's prior criminal record, opportunity for the defendant to discard damaging evidence, and comments by the suspects former employer about his instability. The neutral publicity mentioned the lack of clues and leads, the victims name and the high crime rate (Davis, 1986).

The researcher divided the subjects into 12 person juries who viewed a total of 20 trials. After reading the publicity, the subjects either immediately or after a one week delay were assigned to view a videotape trial which involved a defendant who was charged with breaking and entering and attempted rape.

The results showed that subjects who read articles containing *negative publicity rendered two guilty verdicts, five not guilty verdicts,* and three hung juries . Subjects who read articles containing neutral publicity rendered *no guilty verdicts*; *seven not guilty verdicts,* and three hung juries. (Davis, 1986).

This study revealed "that juries are able and willing to put aside extraneous information [regardless of the time frame] and base their decisions on the

evidence" (Davis, 1986). One explanation for the results is that the subjects could perceive the news media "as a threat to their freedom" to reach an uninfluenced verdict, thus they are rebelling against the news media (Davis, 1986). Thus, this data supports the free press argument that the press should have more access to the courtroom (Davis, 1986).

Courts employ a number of remedies to counteract the effects of pretrial publicity (Kramer et al, 1990). Voir dire ("to speak the truth") is a remedy favored by judges and attorneys (Surette, 1992). Judges question prospective jurors to determine what information they have learned about a case, and if that information can be set aside so that the defendant is tried by an impartial juror (Hans & Dee, 1991; Surette, 1992). Dexter et al (1992) examined the effects of voir dire. He either exposed or did not expose subjects to pretrial publicity, and either exposed subjects to minimal voir dire or extended voir dire. Subjects exposed to minimal voir dire which is typically used in federal courts, were asked 10 questions by the judge which included the juror's ability to be impartial and decide the case on the evidence presented; prior jury service; and their occupation. Subjects exposed to extended voir dire were questioned by the defense attorney for roughly one hour. The questioning was more in depth and the defense attorney attempted to "debias" the jury members by explaining the difference between the standards of the mass media and the court system.

The results revealed that subjects who were exposed to *minimal voir dire and no pretrial publicity acquitted the defendant 53 percent of the time* , and subjects exposed to *minimal voir dire and pretrial publicity acquitted the defendant 33 percent of the time.* Conversely, subjects exposed to *extended voir dire and no pretrial publicity acquitted the defendant 80 percent of the time* , and subjects exposed to *extended voir dire and pretrial publicity acquitted the defendant 65 percent of the time.* Thus, extended voir dire made a difference in

the trial verdict since the subjects perceived the defendant as less culpable (Dexter et al, 1992).

Cameras in the courtroom is another aspect of the news media in the courtroom issue which has spurred controversy. Borgida et al (1990) conducted a study examining how the presence of a video camera in the courtroom affects a witness's "ability to recall aspects of a [criminal] event"; and the degree of witness nervousness as perceived by themselves and jurors. The subjects posing as witnesses viewed a videotape of a simulated armed robbery. One week later, the subjects returned and were assigned to one of three conditions: (I) a videotape camera taping the testimony (electronic media coverage [EMC]); (II) a journalism student taking notes during the testimony (controlled media coverage [CMC]); (III) no media coverage (control group).

For memory recall, the results showed that witnesses who testified in front of a video camera (EMC), "provided lawyers with the same overall information and correct information, [as compared to non-EMC witnesses]" (Borgida et al, 1990). Although the subjects were more nervous about testifying in front of a video camera compared to those testifying in front of a journalist or no media coverage, the results showed the EMC subjects "were *not* significantly more nervous" about having to recall details of the criminal activity, facing direct and cross examination by the attorneys, "or having to testify in front of a jury" (Borgida et al, 1990). The authors concluded that although the presence of a camera in the courtroom made witnesses nervous, they were still able to recall facts about the crime (Borgida et al, 1990).

The common thread running through the aforementioned studies is that the researcher(s) either used mock or potential judges and jurors as their subjects. While these studies do shed light on how the mass media affects *potential jurors,*

and the affectiveness of judicial remedies, they neglect to show how *actual jurors* are affected.

CONCLUSION

The experiments conducted by Roberts and Doob (1990), Moran and Cutler (1991) and Riedel (1993), show that pretrial publicity *can* affect a potential juror's or judge's decision. In contrast, Davis' (1986) and part of Riedel's (1993) experiment revealed that potential jurors are able to set aside pretrial publicity and render a verdict based on the evidence presented. This dichotomy shows that further research on the effects of pretrial publicity needs to be done.

"Holes" in the Current Research

More research still needs to be done on *actual trial participants* instead of *simulated trial participants*. For example, data were elicited from the previous mentioned studies by either observing mock juries or by conducting telephone surveys. The problem with mock juries is that they do not represent an actual trial nor is the sample representative since the sample usually consists of college students who wish to earn extra credit. Furthermore, the problem with telephone surveys is that the general public is not well educated with the working of our judicial system, so they may not fully understand the questions or the rationale behind them.

The experiment conducted by Dexter et al (1992) revealed that extended voir dire does increase the defendants chances of being acquitted. It would be interesting to know if the percentage of acquittals is directly correlated to extended voir dire in *actual trials* . Further research needs to be conducted on additional remedies to determine their effectiveness in reducing the effects of pretrial publicity. These remedies include continuance, which involves delaying the start of a trial until the pretrial publicity has subsided (Surette, 1992 &

Kramer et al, 1990); change of venue, which involves trying a case in another geographical area in which the case received less publicity and might be less interesting (Surette, 1992); and juror sequestration, which occurs when a judge isolates a jury from the public, thus preventing the publicity from reaching them (Surette, 1992).

Directions for Future Research

The major problem thus far is that limited research has examined the effects of mass media in the courtroom on actual jury trials. Further research should examine jurors who either are presently serving or previously served on a jury to see if pretrial publicity influenced their verdicts. For example, present or former jurors could either be personally interviewed or anonymously complete a survey questionnaire on how or why the media influenced their verdicts. Similarly, it would be interesting to study the jurors' decisions upon completion of the O.J. Simpson trial. In addition, the same jurors should be questioned regarding the effectiveness of the remedies which the trial judge implement. For example, in surveying a mock jury, Kramer et al (1990) found that jury instructions which involves a judge telling a jury not to discuss a case are ineffective. Finally, since the O.J. Simpson trial has taken center stage, it would be interesting to know if the cameras in the courtroom have any effect on *actual jury trials* instead of mock juries.

Summary

Cable television, microwave and satellite technology, coupled with public curiosity, have led to live trial coverage and an explosion of re-enactment programs such as America's Most Wanted and Unsolved Mysteries (Minow & Cate, 1992). As a result of this increased media activity, *impaneling an impartial jury* can be difficult (Minow & Cate, 1992). Perhaps our nation's forefathers realized that impaneling a jury without prejudice, bias, and opinion would be a

difficult task, which is why the Sixth Amendment "guarantees a defendant's right to a fair trial by [an] impartial jury, not impartial jurors" (Minow & Cate, 1992). This way, 12 people render a verdict collectively rather than 12 independent votes (Minow & Cate, 1992).

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